

Serial: 147435

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99025-SCT

No. 89-R-99027-SCT

*IN RE: UNIFORM RULES OF CIRCUIT AND
COUNTY COURT PRACTICE*

IN RE: RULE OF APPELLATE PROCEDURE

ORDER

This matter is before the Court on its own motion to adopt Rule 4.06 of the Uniform Circuit and County Court Rules to provide for interlocutory appeal from county court to the Supreme Court. Also before the Court is the proposed amendment to the Comment of Rule 5 of the Mississippi Rules of Appellate Procedure.

IT IS THEREFORE ORDERED that Rule 4.06 of the Uniform Circuit and County Court Rules is hereby adopted, as follows:

Rule 4.06

INTERLOCUTORY APPEAL FROM COUNTY COURT

Interlocutory Appeal. An appeal from an interlocutory order in county court may be sought in the Supreme Court as provided in Rule 5 of the Mississippi Rules of Appellate Procedure.

[Adopted effective July 1, 2008.]

IT IS FURTHER ORDERED that the Comment to Rule 5 of the Mississippi Rules of Appellate Procedure is amended, as follows:

Comment

This rule is a composite of Fed. R. App. P. 5, 28 U.S.C. § 1292(b) and American Bar Ass'n. *Standards Relating to Appellate Courts* § 3.12 (1977). *See also*, Ala. R. App. P. 5; Comment, 88 Harv. L. Rev. 607 (1975). It provides for interlocutory appeal from ~~either~~ Circuit, ~~or~~ Chancery and County Courts. *See Sonford Products Corp. v. Freels*, 495 So. 2d 468, 471 (Miss. 1986); *Kilgore v. Barnes*, 490 So. 2d ~~894~~ 895, 896 (Miss. 1986); *Southern Farm Bureau Cas. Ins. v. Holland*, 469 So. 2d 55, 62-64 (Miss. 1985) (Anderson, J., concurring). It applies to both civil and criminal cases. *Cf. State v. Caldwell*, 492 So. 2d 575, 576-577 (Miss. 1986) (remedial writ granted where constitutional rights violated prior to criminal trial).

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[Comment amended effective April 15, 2004; amended effective July 29, 2004; amended effective December 9, 2004; Comment amended effective January 11, 2007; Comment amended effective July 1, 2008.]

IT IS ALSO ORDERED that the Clerk of this Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Second Series, (Mississippi Edition)*.

SO ORDERED, this the 13th day of May, 2008.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., PRESIDING JUSTICE
FOR THE COURT

AGREE: SMITH, C.J., WALLER AND DIAZ, P.JJ., CARLSON, DICKINSON,
RANDOLPH AND LAMAR, JJ.

DISAGREE: EASLEY AND GRAVES, JJ.